

Serial No.: 09/945,020  
Examiner: Kelvin Y. Lin

**REMARKS/ARGUMENTS**

Claims 47-66 remain in this application with claims 47, 65 and 66 being independent claims.

In the outstanding office action the Examiner indicated that the new claims (47-66) added in the amendment filed 9/13/2005, were considered non-responsive because the Applicant did not respond to the rejection of previously canceled claims 38-46. In the office action of 6/13/2005 the Examiner rejected claims 38-46 under 35 USC 102(e) as being anticipated by Lin et al. (US Patent No. 6,405,256). It is pointed out that there are no outstanding rejections of new claims 47-66 as they have never been examined.

Regardless, the Examiner, in a teleconference on 12/15/05, has required the Applicant to "present arguments pointing out the specific distinctions believed to render the patentable claims".

Applicant respectfully asserts that independent claims 47, 65, and 66 are not disclosed, taught or rendered obvious by Lin et al.

In particular, with regards to independent claim 47, Applicant asserts that at least the steps of:

"in the server, estimating an amount of data buffered in the network,  
BYTE<sub>BUFFERED</sub>, at a time a feedback report, FR, is received from the client; and  
in the server, calculating a streaming data rate set point based on the estimated  
BYTE<sub>BUFFERED</sub> and other information from the server"  
as presently claimed are not disclosed, taught or rendered obvious by Lin et al.

With regards to independent claim 65, Applicant asserts that the steps of:

"estimating in a server, an amount of data buffered in the network,  
BYTE<sub>BUFFERED</sub>, at a time a feedback report, FR, is received from a client; calculating a  
data rate set point based on the estimated BYTE<sub>BUFFERED</sub> and other information from a  
server; and

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imposing an upper and lower bound on the data rate set point, to establish minimum and maximum data rate set points, respectively”  
as presently claimed are not disclosed, taught or rendered obvious by Lin et al.

With regards to independent claim 65, Applicant asserts that the steps of:

“estimating in a server, an amount of data buffered in the network, BYTE<sub>BUFFERED</sub>, at a time a feedback report, FR, is received from the client; calculating a data rate set point based on the estimated BYTE<sub>BUFFERED</sub> and other information from the server; and

imposing an upper and lower bound on the data rate set point, to establish minimum and maximum data rate set points, respectively; and gradually changing the data rate set point by the server if a next FR has not been received from the client within a specified time period”

as presently claimed are not disclosed, taught or rendered obvious by Lin et al.

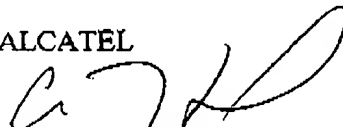
Regarding claims 48-64, as these claims depend either directly or indirectly from independent claim 47 and therefore incorporate all the limitations therein, for the reasons set forth above with respect to independent claim 47, Applicant asserts that these claims are also patentable over Lin et al.

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It is believed that the foregoing overcomes the Examiner's assertion that the previously filed amendment is non-responsive. Applicant further asserts that the Application is in condition for allowance. Applicant respectfully requests withdrawal of the Examiner's notice and rejections as set forth in the Office Action, and full allowance of same. Should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner contact the undersigned to expeditiously resolve any outstanding issues.

Respectfully submitted,

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